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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,621	03/24/2004	John Chi Hee Kwok	9265USA-NONP	4612

7590 07/06/2007  
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EXAMINER
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NUTTER, NATHAN M

ART UNIT	PAPER NUMBER
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1711

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/807,621	Applicant(s) KWOK ET AL.	
	Examiner Nathan M. Nutter	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed 15 June 2007, the following is placed in effect.

The rejection of claims 1-24 under 35 U.S.C. 103(a) as being unpatentable over Kim (US 6,930,150), taken with Wang et al (US 5,852,124), is removed only in this Office Action, based upon applicants' amendments to the claims, i.e. the recitation of "non-ionic." Otherwise, the rejection will be re-instated upon amendment of the claims to their original form.

The rejection of claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is hereby expressly withdrawn.

The rejection of claims 18-21, only, under 35 U.S.C. 103(a) as obvious over Sugioka et al (US 6,348,540), is hereby expressly withdrawn.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The recitation of "non-ionic" in each of the claims has no antecedent bases in the Specification, as originally filed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as obvious over Sugioka et al (US 6,348,540).

The reference to Sugioka et al teaches the production of a styrenic resin composition that comprises a non-ionic rubber modified styrene maleic anhydride copolymer with a polybutene constituent. Note column 4 (lines 28-54) for the rubber constituent, including polybutadiene. Note column 4 (line 58) to column 6 (line 2) for the employment of a styrene maleic anhydride copolymer. The reference teaches the inclusion of polybutene as either component (F) of component (G) at column 6 (lines 23 et seq.). Thus, the combination of constituents is shown at column 9 (lines 47-65). The manipulation of the constituents for maximum benefits derived therefrom would be well within the purview of a skilled artisan. Nothing unexpected is shown on the record and the expectation of success to arrive at the instantly claimed invention would be very high.

***Response to Arguments***

Applicant's arguments filed 15 June 2007 have been fully considered but they are not persuasive.

With regard to the rejection of claims 1-21 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, applicants have failed to show support for the concept "non-ionic." Regardless of the reasoning for inclusion thereof, the term "non-ionic" has no basis in the Specification, as originally filed. The Specification is not specific to any non-ionic composition, and applicants have provided no clear reasoning to support the contention. The Specification is viewed in its broadest aspects.

With regard to the rejection of claims 1-17 under 35 U.S.C. 103(a) as obvious over Sugioka et al (US 6,348,540), applicants have presented an interpretation of the reference and argue that the reference requires "four components" whereas the instant claims require "two main components, i.e. a rubber modified styrene maleic anhydride copolymer and 2) polybutene, and optionally, the customary additives." Applicants contend the "fact that component (B) may be rubber and component (E) may be a styrene maleic anhydride does not translate into these two components constituting a non-ionic rubber modified styrene maleic anhydride copolymer of the claimed invention since the rubber modified styrene maleic anhydride copolymer of the claimed invention is produced via a polymerization process and the polybutene is added to the styrene;

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the maleic anhydride and the rubber in the polymerization process in a reactor vessel.”

This argument is moot in view of the removal of the rejection over the process claims.

Applicants further contend, “the components (A) and optionally (B), (E), (F), and (G) constitute the resin moiety for the styrenic resin composition of this reference and these components must be used with two fillers of components (C) and (D) which are specially designed fillers used to produce desired properties for the moldings of the styrenic resin compositions of the Sugioka reference. In contrast to this, the composition of the claimed invention does not require specially designed fillers but optionally includes conventional type fillers.” This is not deemed relevant since the instant claims include “customary additives,” that would include those disclosed by the reference.

Applicants contend “none of the various combinations of component (A) with one or more components (B), (E), (F), and (G) as disclosed in column 9 of this reference can be equated to the non-ionic rubber modified styrenic resin composition of the claimed invention, particularly, Claim 1 as amended.” This is not deemed so since the passage recites at (lines 47-63) the combination as recited and claimed herein. It is pointed out that claims 1-17 are drawn to a product. Even though product-by-process are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 777 F 2<sup>nd</sup> 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

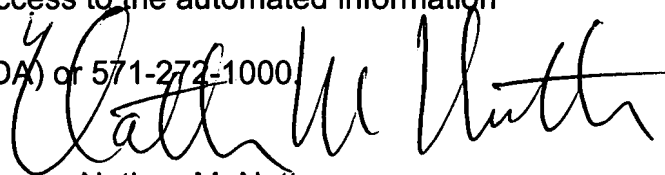
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan M. Nutter  
Primary Examiner  
Art Unit 1711

nmn

2 July 2007